

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

BULLETIN 93-09

Issued this 18th day
of October, 1993

TO: ALL COMPANIES WRITING COMMERCIAL AUTO INSURANCE IN MINNESOTA
SUBJECT: SELF-INSURED COMMERCIAL AUTOMOBILES.

It has recently come to the Department's attention that a number of insurers may be allowing some of their insureds to self-insure for a portion of their liability risk without the insured first demonstrating compliance with Minnesota Statute §65B.48, subd. 3.

These situations are occurring when insurers are issuing large deductible policies which require the insured to adjust and pay all claims falling within the deductible portion of coverage. Some of the policies include provisions which claim that if the insured becomes insolvent, the insurer is only responsible for those losses over the amount of stated deductible.

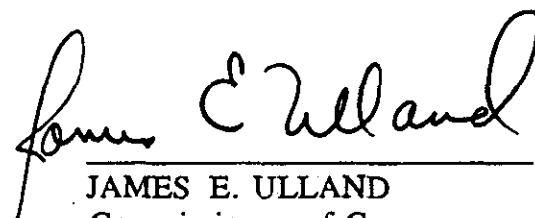
These types of policies are essentially "excess policies" and do not satisfy the mandated requirements of Minn. Stat. §65B.49, nor the insurers responsibility under Minnesota Statutes §65B.50. An excess policy is only allowed on automobile coverage if there is an underlying policy or self-insured program which meets all the provisions mandated by the applicable Minnesota statutes and rules. The policies in question are apparently being written on a single case basis with manuscript forms, which need not be filed with this Department pursuant to bulletin 91-9. Regardless of whether these policies are required to be filed with the Department, they must comply with applicable Minnesota laws. Specifically, these policies must be written in a manner that insurers and not insureds will be responsible for first dollar coverages. Insurers can then obtain reimbursement from their insured for all payments made on their behalf up to the amount of the deductible. Policies may not, under any circumstances, delegate first dollar payment responsibilities to anyone other than the insurer.

The Department has also become aware of certain claims adjustment practices by some commercial insurers; specifically, these companies, although providing first dollar coverage, have delegated claims adjustment authority to their insureds for those claims not exceeding the insureds deductible. Insurers engaging in such activities will be held responsible for any violations committed by their insureds. Consequently, it is recommended that these delegations of authority be thoroughly reviewed by your legal counsel before implementation.

If your company has issued any policies in Minnesota which fail to comply with the requirements for first dollar coverage, they must be rewritten/amended immediately. In addition, if you determine your company has in force policies including the aforementioned prohibited practices, you must send a list to the Department within 30 days of receiving this bulletin. The list must provide the following information relating to such policies:

1. The name of the insured.
2. The policy limits.
3. The amount of deductible.
4. The original issue date and the date the policy was rewritten/amended to achieve compliance with "first dollar" coverage requirements.

An officer of a company must sign and date this bulletin and return a copy to the Department of Commerce within 15 days of the date of this bulletin. You may fax a copy to (612) 296-4328. If you have questions regarding this bulletin, please contact Supervisor William Kyle at (612) 296-2656.


JAMES E. ULLAND
Commissioner of Commerce

Company _____

Officer's Name _____

Officer's Signature _____

Date _____